

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

MAR 05 2020

Clerk, U S District Court
District Of Montana
Billings

CHARLES M. BUTLER, III and
CHOLE BUTLER

CV 17-50-BLG-SPW

Plaintiffs,

vs.

UNIFIED LIFE INSURANCE
COMPANY; HEALTH PLANS
INTERMEDIARIES HOLDINGS,
LLC, doing business as Health
Insurance Innovations, Inc.; ALLIED
NATIONAL, INC.; NATIONAL
BROKERS OF AMERICA, INC.;
THE NATIONAL CONGRESS OF
EMPLOYERS, INC.; and DOES 1-10

Defendants.

CLASS CERTIFICATION
ORDER

Under Federal Rule of Civil Procedure 23(c), IT IS HEREBY ORDERED:

1. **Class certification.** Civil Action No. CV 17-50-BLG-SPW, *Butler et. al. v. Unified Life Insurance Company, et. al.* shall be maintained as a class action on behalf of the following class of plaintiffs:

a. All individuals who have purchased the Unified Life Insurance Company (Unified) Short Term Medical Insurance Policy or any policy with similar, operative language as the policy covering the class representative;

- b. Who have paid their premiums;
- c. Who have made one or more claims;
- d. For whom Unified assigned an amount for the claim using the Data iSight formula; and
- e. For whom Unified assigned the payable amount within the applicable statutory period of limitations for written contracts dating back from the filing of the Plaintiff's Third Amended complaint.¹

This class is certified only with regard to the claim that Unified breached its insurance agreements as set forth in Count I of the Class Claims for Relief in the Third Amended Complaint. The grounds for class certification, including analysis of all relevant Rule 23 factors, are set forth in the Magistrate's Recommendations and the Court's Orders concerning Plaintiffs' Motion for Summary Judgment and for Class Certification (Docs. 225, 226, 240, and 241) and are expressly incorporated herein.

2. Class Representative; Class Counsel. Charles Butler is designated as class representative and John Morrison and Scott Peterson are designated as counsel for the class.

¹ Charts outlining the relevant statute of limitations by state are attached as Exhibit 3.

3. Identification of Class Members. Unified Life and its claims administrator Allied National have in their possession information pertinent to the identity of class members.² Therefore, by May 4, 2020, Unified shall produce to the Court and class counsel the names, addresses, and other contact information Unified possesses for all class members organized by state.

4. Notice. The Court hereby approves the individual notice, an example of which is attached as Exhibit 1, and approves the publication notice, an example of which is attached as Exhibit 2.³ Class counsel, with Unified cooperation, will accomplish having the individual notices mailed, and the publication notice reasonably published. Because this Court has already granted partial summary judgment concerning Unified Life's liability, Unified Life will bear the cost of mailing the notice, including any administrative costs incurred. *Hunt v. Imperial Merchant Servs., Inc.*, 560 F.3d 1137 (9th Cir. 2009). Notice shall be mailed by June 22, 2020. Class members shall have 60 days from the mailing of the notice to opt out as provided in the notice.

5. List of Class Members. By August 31, 2020, class counsel shall file with the clerk a list of all class members and a list of the individuals who opted out of the Class.

² See Charles Butler Explanation of Benefits, attached hereto as Exhibit 4.

³ Counsel will be responsible for incorporating the correct dates into the notices.

DATED this 4th day of March, 2020.

Susan P. Watters
SUSAN P. WATTERS
United States District Judge